M M

Home (1948) Department.

P. 8169

Ms SERIES.

~~G.O. No.~~ Letter 3926

Dated 22-10-1948

[Despatch Abstract.]

Court Fees Act - Avoidance of double taxation in respect of Succession Certificates - Remission of Court fees - Reciprocal arrangements with the Acceding States.

(1)

No.F.52-IB/48

From

The Deputy Secretary to the Government of India, Ministry of States.

To

The Chief Secretaries to the Government -Madras, Bombay, West Bengal, the United Provinces, the East Punjab, Bihar, the Central Provinces, Assam, Orissa and
The Chief Commissioners - Ajmer - Merwara, Delhi and Panth Piploda.

Dated New Delhi, the 4th June 1948.

Avoidance of double taxation in respect of succession certificates.

* * *

Sir,

I am directed to state that by an Adaptation Order published with the notification by the Ministry of Law No.G.G.O.37 which appeared on pages 431, 432, 467 and 468 of the Gazette of India, Extraordinary, dated the 23rd March 1948, section 382 of the Indian Succession Act, 1925 (Act XXXIX of 1925), has been amended so as to provide that succession certificates issued by District Judges in Acceding States shall have the same effect in the Provinces as certificates granted under the provisions of that Act. But as the certificates, in order to be recognised, still require to be stamped in the Provinces under the provisions of the Court-fees Act, 1870, a person who succeeds to property situated ~~part~~ partly in an Acceding state and partly in a Province is likely to be subjected taxation in both places in respect of the entire property. The position is probably similar under the laws of those Acceding States which recognise succession certificates granted by the Courts of the Provinces. It ~~is~~ has been suggested that double taxation in this case could be avoided if the Provincial Government exercise their powers under section 35 of the Court-fees Act to remit payment of court-fees for the stamping in the Province of succession certificates issued in Acceding States; and by the Acceding States taking similar action under the States counterpart of the Court-fees Act. The Acceding States are being addressed in the matter, but ~~meanwh~~ meanwhile I am to request that this Ministry may kindly be ~~inform~~ informed whether the Provincial Government are agreeable to actio as indicated above being taken on a reciprocal basis.

I have the honour to be,
Sir,
Your most obedient servant,
(sd) . . .
Deputy Secretary to the Government of India.

GK.27.5.

P.T. D

HOME DEPARTMENT

Endt. No.53230-E/47 Dated 18-6-1948.

Referred to the Board of Revenue for very early remarks.

o/c

sd.

Additional Assistant Secretary to Government.

Through P & F.

To

The Board of Revenue;
Madras.

REVENUE DEPARTMENT
Subject:

STAMPS - The Indian Succession Act of 1925 Grant of Certificate : in acceding States - Remission of Court Fees payable in this Province - Proposals - Remarks - Submitted.

B.P.Rt.No.4848 Station: M a d r a s dated 22nd July 1948

From

C.A.Ramakrishnan Esq, ICS, Joint Secretary, Board of Revenue.

V.S.Hejmadi Esq, ICS, Commissioner of Civil Supplies and Separate Revenue.

Read:From the Govt. Home Dept. Endt.No.53230E/48-1 dt.18-6-48

. . . .

Resolution:

The Board recommends that the proposal of the Government of India may be approved, in the arrangement is to be on a ~~reeip~~ reciprocal basis.

(sd)

for Joint Secretary.

To

The Secretary to Government, Revenue Department.

GK.27.5.

GOVERNMENT OF INDIA.
Ministry of Law
(Reforms)

NOTIFICATION.

New Delhi, the 23rd March 1948.

No.G.G.O.37. The following order made by the Governor General is published for general information:-

THE INDIAN INDEPENDENCE (ADAPTATION OF CENTRAL ACTS AND ORDINANCES) ORDER, 1948.

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WHEREAS sub-section (3) of section 18 of the Indian Independence Act, 1947, provides that save as otherwise expressly provided in the said Act, the law of British Indian and of the several parts thereof existing immediately before the appointed shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof, until other provision is made by laws of the legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf;

AND WHEREAS sub-section (1) of section 9 of the said Act provides that the Governor-General shall by order make such provision as appears to him to be necessary or expedient for bringing the provisions of the said Act into effective operation and for removing difficulties arising in connection with the transition to the provisions of the said Act.

NOW THEREFORE, in the exercise of powers conferred by the said Act, the Governor-General is pleased to make the following Order:-

(1) This Order may be cited as the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

(2) It shall come into force at once.

2. In this Order, the expression 'Central Act' has the meaning assigned to it by clause (8aa) of the General Clauses Act 1897, and the expression 'Ordinance' means any Ordinance made by the Governor-General under section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935.

3. (1) The Central Acts and Ordinances, specified in the Schedule to this Order shall, until repealed or altered or amended by a competent Legislature or other competent authority have effect subject to the adaptations directed by that Schedule and by paragraph (2) of this Article.

(2) Wherever the expression "the whole of British India" or the expression "British India" (Otherwise than in the expression' the whole of British India') occurs in a Central Act or Ordinance, whether in an Act or Ordinance specified in the Schedule to this Order or not, then, unless that expression is by that Schedule expressly directed to be otherwise modified, or to be omitted, there shall be substituted of or the expression first named the expression" all the Provinces of India" and for the expression second-named the expression "the Provinces."

P.T.O

Provided that nothing in this paragraph shall apply to--

(i) The Revenue Recovery Act, 1890 (I of 1890);
(ii) the Indian Railways Act, 1890 (IX of 1890)
(iii) the Indian Income-tax Act, 1922(XI of 1922)
(iv) the Excess Profits Tax Act, 1940(XV of 1940)
(v) the Business Profits Tax Act, 1947 (XXI of 1947).

(3) References in paragraph (2) of this Article and in the Schedule to this Order to any Central Act or Ordinace, shall be constructed as references to that Act or Ordinance as amended or modified by any subsequent Act or Ordinance and as in force in the Dominion of India immediately before the coming into force of this Orders

4. The Provisions of this Order shall have effect notwith standing anything to the contrary contained in the Indian (Adaptation of Existing Indian Laws) Order, 1947.

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INDIAN SUCCESSION ACT, 1925.
(XXXIX of 1925)

Long title and preamble - For "British India" substitue "the Provinces of India"

Section 273:- For "the whole of British India" substitute "the other Provinces of India", and add the following paragraph:-

"The Proviso shall also apply in the Provinces of India after the separation of Pakistan from Indian to probates and letters of administration granted before the date of the separation, or after that date in proceedings pending at that date, in any of the territories which on that date constituted Pakistan"

Section 318:- For "the whole of British India" substitute "the Provinces of India".

Section 380:- For "the whole of British India" substitute "the Provinces of India"; and add the following paragraph:-

"It shall also apply in the Provinces of India after the separation of Pakistan from India to certificates granted before the date of separation, or after that date in proceedings pending at that date in any of the territories which on that date constituted Pakistan".

Section 382: After "has been granted" insert" to a resident within an Acceding State by a District Judge of that State, or", for British representative" substitute "representative of India", and for "such representative" substitute "such Judge or representative".

Schedule IV:- For "whole of British India" substitute "Provinces of India."

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HOME DEPARTMENT

Letter /Ms.No.3926 Dated 22-10-48

To

The Deputy Secretary to the Govt. of India,
Ministry of States, New Delhi.

Sir,

COURT FEES ACT - Avoidance of double taxation in respect of Succession certificates--Remission of Court fees - Reciprocal arrangements with the Acceding States.

- - -

Reference: Your letter No.F.52-IB/48, dated 4-6-1948.

I am directed to say that the Madras Government are agreeable to action being taken on a receiprocal basis as indicated in the letter cited.

Yours faithfully,

GK.27-5.

HOME DEPARTMENT

Court Fees Act.- Avoidance of double taxation in respect of Succession Certificates - Remission of Court Fees - Reciprocal aprangement with Acceding States.

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From the Govt. of India, Ministry of States No.F.52-I.B/48 dated 4-6-1948.
Endt. to the Board of Revenue No.53230 E/48-1 Home dated 18-6-1948.
From the Board of Revenue, Ref.No.B.P.Rt.ɲ 4848 d/22-7-48.

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By the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, Section 382 of the Indian Succession Act, 1925 (Act XXXIX of 1925) was amended to Provide that succession certificates issued by District Judges in ~~Acceding~~ Acceding States shall have the ~~sma~~ same effect in the Provinces as certificates granted under the provisions of that Act. But as the certificates, in order to be recognised, still require to be stamped in the Provinces under the provisions of the Court Fees Act, 1870, a person who succeds to property situated partly in an Acceding State and partly in a Province, is likely to be subject~~ed~~ to taxation in both places in respect of the entire property. The Government of India have stated that it has been suggested ~~th~~ that double taxation in this case could be avoided if the Provincial Government exercised their powers under Section 35 of the Court Fees Act to remit payment of court fees for the stamping in the Province of suceession certificates issued in Acceding States and if the Acceding States took similar action under the States counterpart of the Court Fees Act. They have asked whether this Government is agreeable to action as suggested above, being taken on a reciprocal basis.

2. The Board of Revenue which was consulted in the matter has recommended that the Government of India's proposal may be approved, if the arrangement is to be on a reciprocal basis. For orders whether the Government of India may be informed that the Madras Government are agreeable to the proposal. If so, the draft letter submitted is for approval. Finance may see before circulation.

* * *

Finance (A.A)

The letter from the Government of India on p.1 c.f. and the note of Home on pp.1-2 above may be perused.

2. The draft letter to the Govt. of India, below, may be perused. The probable loss of revenue involved in the proposal is not known. Presumably it would not be much.

H.M. (Fin.) may also see.

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HOME DEPARTMENT.

Please see this Department note from p;1 ante and the Finance Department note above.

2.Finance presume that the probable loss of revenue involved in the proposal would not be much.

P.T.O.

3. The case may be now circulated to H.Pr. and H.M (Fin) for approval of the draft letter to the Government of India, as below.

May be approved

H.M.Pr.

H.M (Fin)

/Issued as Letter Ms.No.3926 Home dated 22-10-48_7

Abstract: Court Fees Act - Avoidance of double taxation in respect of Succession Certificates Remission of Court fees - Reciprocal Arrangements with the Acceding States.

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/True Copy/

Superintendent,
MADRAS RECORD OFFICE.

GK.27.5.